

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIMOTHY P. DONN and ANNE E. DONN
as legal guardians on behalf of C.E.S.,
V.A.S., and H.M.S., minors,

Plaintiffs,

Case No. 1:15-cv-00982

v.

HON. JANET T. NEFF

HON. LARRY J. NELSON, *in his official capacity as a Leelanau County Family Court Judge*, MATTHEW FEIL, *in his official capacity as Tribal Prosecutor for the Grand Traverse Band of Ottawa and Chippewa Indians*, and HELEN COOK, *in her official capacity as Supervisor of Anishinaabek Family Services for the Grand Traverse Band of Ottawa and Chippewa Indians*,

Defendants.

JOINT NOTICE

Pursuant to this Court's January 19, 2016 Order (ECF No. 69, PageID.663), after conferring by counsel the parties submit this Joint Notice addressing the issues specified in the order.

(a) Status of Tribal Court Adoption Proceedings

Subsequent to this Court's January 19, 2016 hearing/status conference, two developments occurred in the Tribal Court adoption proceedings that were discussed by counsel for all of the Tribal Court interested parties with the Tribal Court Judge during the Tribal Court's January 25, 2016 hearing/status conference. Because of an intervening event (voluntary dismissal of this

federal court litigation) and confidentiality of the Tribal Court adoption proceedings, the particular developments will not be discussed in this report. Suffice it to say that during the Tribal Court's January 25, 2016 hearing/status conference, it was determined that the adoption petition will be contested.

(b) Anticipated Tribal Court Time Table for Adoption Proceedings Resolution

The Tribal Court must resolve the two matters discussed in the preceding section before a timetable can be anticipated for resolution of the adoption proceedings. A simultaneous briefing schedule was adopted. Initial motions/briefs shall be filed by February 15th, with responses due a week later. Depending on the Tribal Court's resolution of these matters, it may take several additional months for the adoption proceedings to be completed after the Tribal Court rules on the pending matters.

(c) Implications Including Scheduling Second Pre-Motion Conference

These developments in the Tribal Court proceedings render it unlikely that the Donns' adoption petition will be approved promptly as anticipated by their counsel during this Court's January 19, 2016 hearing/status conference. Were it not for the intervening event (voluntary dismissal), counsel for the individual defendants in this federal court litigation (the state court judge and the tribal defendants) would urge this Court to schedule a pre-motion conference as previously requested by the tribal defendants and Michigan Attorney General who seeks to intervene for the purpose of defending the constitutionality of the Michigan statute challenged in this litigation.

Voluntary Dismissal

However, counsel for the individual defendants also separately suggested to the Donns' counsel (in both the Tribal Court and federal court proceedings) that this case be dismissed. By telephone conversation late yesterday (Tuesday, January 26th), plaintiffs' counsel informed undersigned counsel that plaintiffs have decided voluntarily to dismiss under Rule 41(a) and that plaintiffs' counsel would be circulating a proposed stipulation and order. We anticipate this stipulation may be filed simultaneous with this Joint Report.

Respectfully submitted,

Date: January 27, 2016

/s/ William Rastetter

By: _____
William Rastetter (P26170)
Olson, Bzdok & Howard, P.C.
420 E. Front Street
Traverse City, MI 49686
(231) 946-0044
bill@envlaw.com